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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,669	02/25/2004	Christian Eichrodt	60705-1352	3020
24504 7590 12/02/2008 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 600 GALLERIA PARKWAY, S.E. STE 1500 ATLANTA, GA 30339-5994				
EXAMINER CORRIELUS, JEAN B				
ART UNIT 2611		PAPER NUMBER		
MAIL DATE 12/02/2008		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/786,669

**Applicant(s)**

EICHRODT ET AL.

**Examiner**

Jean B. Corielus

**Art Unit**

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 September 2008.  
2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 35, 36, 38, 40-46 and 48-53 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
7) ☒ Claim(s) 35, 36, 38, 40-46 and 48-53 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 30 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 35, 36, 38, 40-46 and 48-53 are objected to because of the following informalities: claim 35, line 4 recites “wherein while monitoring the data”, such limitation suggests a previous limitation to “monitoring the data, while the claim does not explicitly recite such limitation. It is suggested to replace “determining whether a”, recited in line 3, by “monitoring a data signal to determine whether the”.

As per claim 40, line 2, “an” should be replaced by “the” so as to make use of antecedent in claim 35; in addition, shouldn’t “that reaches” be replaced by “reaching”.

Claim 44, lines 6-7, the limitation “the data signal is maintained” does not make sense. Was “level” intended instead of “signal”? If so, the claim should be amended accordingly and the limitation currently deleted in lines 3-4 should be reinstated so as to provide antecedent basis for “data level”. The same comment applies to “the data signal is not maintained”, recited in lines 8-9. line 10 “a” may need to be replaced by “the” if the limitation currently deleted in lines 3-4 is reinstate, per the above suggestion.

Claim 49, lines 4-5, the limitation “the data signal is maintained” does not make sense. Was “level” intended instead of “signal”? If so, such limitation should be replaced by “a data level of the data signal is maintained” or equivalent limitation. Similar comment applies equally to the limitation “data signal” recited in line 6, except that “data signal” should be replaced by “data level”.

Claim 53, shouldn’t “from” be replaced by “generated by”?

Any claim whose base claim is objected is likewise objected. Appropriate correction is required.

***Drawings***

2. The drawings were received on 9/30/08. These drawings are acceptable.

***Allowable Subject Matter***

3. Claims 35, 36, 38, 40-46 and 48-53 would be allowable if amended to overcome the objection set forth above.

***Response to Arguments***

4. Applicant's arguments, see comment section pages 11-17 of the response, filed 9/30/08, with respect to claims 35, 44 and 49 have been fully considered and are persuasive. The art rejection of claims 35, 44 and 49 has been withdrawn. Note that similar comment applies to any dependent claim as well.

***Conclusion***

5. This application is in condition for allowance except for the formal matters noted above. Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is 571-272-3020. The examiner can normally be reached on Monday-Thursday from 9:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on 571-272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jean B Corrielus/  
Primary Examiner  
Art Unit 2611